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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-863

Administrative Review of Honey from the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On August 6, 2012, the Department of Commerce ("Department") published in the Federal Register the preliminary results of the tenth administrative review, covering the period December 1, 2010, through November 30, 2011, of the antidumping duty order on honey from the People's Republic of China ("PRC").¹ We gave interested parties an opportunity to comment on the Preliminary Results. After reviewing interested parties' comments, we made no changes for the final results of review. The final antidumping duty margins for this review are listed in the "Final Results of Review" section below.

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

FOR FURTHER INFORMATION CONTACT: Bob Palmer or Catherine Bertrand, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-9068 or (202) 482-3207, respectively.

¹ See Honey From the People's Republic of China: Preliminary Results of Review, 77 FR 46699 (August 6, 2012) ("Preliminary Results").

SUPPLEMENTARY INFORMATION:

Background

On April 16, 2012, Petitioners² withdrew their request for an administrative review for all companies under review except Dongtai Peak Honey Industry Co., Ltd. (“Peak”).³ On May 1, 2012, the Department rescinded the review with respect to Anhui Honghui, Foodstuff (Group) Co., Ltd., Shanghai Bloom International Trading Co., Ltd., Shanghai Taiside Trading Co., Ltd., Tianjin Eulia Honey Co., Ltd., and Wuhan Bee Healthy Co., Ltd., because the requests for review of these companies were withdrawn and they were not part of the PRC-wide entity.⁴

As noted above, on August 6, 2012, the Department published the Preliminary Results of this administrative review. In the Preliminary Results, we set the deadline for interested parties to submit case briefs and rebuttal briefs to September 5, 2012, and September 10, 2012, respectively. On September 5, 2012, Peak filed a case brief. On September 10, 2012, the Petitioners filed a rebuttal brief. The Department did not hold a public hearing pursuant to 19 CFR 351.310(d), as no interested parties requested one.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs submitted by parties to this review are addressed in the “Administrative Review of Honey from the People’s Republic of China: Issue and Decision Memorandum for the Final Results” (“I&D Memo”), which is dated concurrently with this notice, and which is hereby adopted by this notice. A list of the issues which parties raised and to which we respond to in the I&D Memo is attached to this notice as an Appendix.

² Petitioners are the American Honey Producers Association and the Sioux Honey Association.

³ See Letter from Petitioners to the Secretary of Commerce “Petitioners’ Partial Withdrawal of Request for Tenth Administrative Review” (April 16, 2012).

⁴ See Honey From the People’s Republic of China: Partial Rescission of Antidumping Duty Administrative Review, 77 FR 25682 (May 1, 2012).

The I&D Memo is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit ("CRU"), room 7046 of the main Department of Commerce building. In addition, a complete version of the I&D Memo can be accessed directly on the Internet at <http://www.trade.gov/ia>. The signed I&D Memo and the electronic versions of the I&D Memo are identical in content.

Scope of the Order

The products covered by the order are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight and flavored honey.⁵ The merchandise subject to the order is currently classifiable under subheadings 0409.00.00, 1702.90.90 and 2106.90.99 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under order is dispositive.⁶

PRC-Wide Entity

In the Preliminary Results, the Department determined that those companies remaining under review as of April 1, 2012, which did not demonstrate eligibility for a separate rate effectively became part of the PRC-wide entity.⁷ Since the Preliminary Results, no interested parties have submitted comments regarding these findings. Therefore, we will continue to treat these companies as part of the PRC-wide entity.

⁵ See I&D Memo issued concurrently with this notice for a complete description of the Scope of the Order.

⁶ See Notice of Antidumping Duty Order And Amendment To Final Determination: Honey from the People's Republic of China, 66 FR 59026 (December 10, 2001).

⁷ See Preliminary Results, 77 FR at 46700.

Facts Available

As noted in the Preliminary Results, the Department issued the non-market economy (“NME”) antidumping duty questionnaire to Peak for individual examination in this review.⁸ However, because the record lacks a complete questionnaire response from Peak, the Department found that the information necessary to calculate an accurate margin is not available on the record of this review.⁹ Further, we found that because we issued questions regarding Peak’s separate rate status to which Peak did not timely respond, Peak did not establish its eligibility for a separate rate in this segment of the proceeding, and thus is considered part of the PRC-wide entity.¹⁰

Because Peak, as part of the PRC-wide entity, failed to respond in a timely manner to the Department’s requests for information, the Department finds that the PRC-wide entity did not cooperate to the best of its ability, and its non-responsiveness necessitates the use of facts available, pursuant to sections 776(a)(2)(A), (B) and (C) of the Tariff Act of 1930, as amended (“Act”). Because the PRC-wide entity, including Peak, withheld requested information, failed to provide information in a timely manner and in the form requested, and significantly impeded this proceeding, we continue to find that the PRC-wide entity, failed to cooperate to the best of its ability, and, accordingly, find it appropriate to apply to it a margin based on adverse facts available (“AFA”). The Department’s determination is in accordance with sections

⁸ See Preliminary Results, 77 FR at 46699.

⁹ See id. at 46702.

¹⁰ See id.

776(a)(2)(A), (B), (C) and 776(b) of the Act.¹¹ For a further discussion regarding Peak, see I&D Memo.

Final Results of Review

The weighted-average dumping margins for the POR are as follows:

Manufacturer/Exporter	Margin (per kilogram)
PRC-Wide entity ¹²	\$2.63

Assessment

Consistent with these final results, and pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.212(b), the Department will direct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties on all appropriate entries. Consistent with AR5 Final Results, we will direct CBP to assess importer-specific assessments rates based on the resulting per-unit (i.e., per kilogram) amount on each entry of the subject merchandise during the review period.¹³ The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department

¹¹ See, e.g., Non-Malleable Cast Iron Pipe Fittings from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 71 FR 69546 (December 1, 2006) and accompanying Issues and Decision Memorandum at Comment 1. See also Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of the First Administrative Review and New Shipper Review, 72 FR 10689, 10692 (March 9, 2007) (decision to apply total AFA to the NME-wide entity) unchanged in Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review, 72 FR 52052 (September 12, 2007).

¹² The PRC-wide entity includes Dongtai Peak Honey Industry Co., Ltd.

¹³ See Honey from the People’s Republic of China: Final Results and Rescission, In Part, of Aligned Antidumping Duty Administrative Review and New Shipper Review, 73 FR 424321 (July 21, 2008) (“AR5 Final Results”).

determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (i.e., at that exporter's rate) will be liquidated at the NME-wide rate. For a full discussion of this practice, see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporter listed above, the cash deposit rate will be established in the final results of this review (except, if the rate is zero or de minimis, i.e., less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate \$2.63 per kilogram; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement

could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

November 19, 2012_
Date

Appendix – I&D Memo

Comment 1: Whether the Department Properly Rejected Peak's Extension Request

Comment 2: Whether the Department Properly Rejected Peak's SAQR

Comment 3: Peak's Separate Rate Status

Comment 4: Whether the Adverse Inference is Appropriate

Comment 5: Whether the AFA Rate is Appropriate

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